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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,725	05/02/2006	Anna Thunstedt	1509-1063	3159
466	7590	03/03/2009	EXAMINER	
YOUNG & THOMPSON			TOMPKINS, ALISSA JILL	
209 Madison Street			ART UNIT	PAPER NUMBER
Suite 500			3765	
ALEXANDRIA, VA 22314			MAIL DATE	DELIVERY MODE
			03/03/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/577,725	THUNSTEDT, ANNA
	<b>Examiner</b>	<b>Art Unit</b>
	ALISSA J. TOMPKINS	3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 December 2008.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment filed on 12/11/2008 has been received. Claims 1-10 are pending.

### ***Claim Objections***

Claims 1 and 6 are objected to because of the following informalities: Claims 1 and 6 require that an arc radius of the second limiting edge is smaller than an arc radius of the first limiting edge. However, the applicant has not specified a point of reference. It is unclear from what reference point the arc radii are being made. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. 2,654,091). Nelson discloses a garment for women comprising a front piece and a back piece which together form a casing in which at least four openings are included namely a neck opening, two armholes, and at least one lower opening (Figures 1-3). The front piece is composed of a top piece 16 and a bottom piece 10. The front piece also has a transverse slit-like access opening, which is delimited by an upper edge of the bottom piece and the lower edge of the top piece. The bottom piece is formed with a tab (area located under 20) which is fastened 20, 32 to the top piece and which separates two recesses 12 for the housing of the breasts. The tab has a tapered basic shape and is delimited by first limiting edges (edges of area around 14) being arched and transforming into likewise second limiting edges (the curved edge area near fasteners 18 and 19) which form the upper edge of the bottom piece and which generally have an arc radius that is smaller than the arc radius of the first limiting edges (Figure 1). It is noted that the applicant has not provided a reference point from which the arc radii are being made. The examiner is using a point of reference less than halfway between the second limiting edge and the first limiting edge. Therefore the second limiting edges would have an arc radius that is smaller than the arc radius of the first limiting edges. The end of the tab is fastened on the inside of the top piece in a fastening point 20, 32 located in the vicinity of the neckband. The lower edge portion of the top piece of the garment is arranged to cover the upper edge portion of the bottom piece (Figure 3).

It is noted by the examiner that claims 5 and 10 are purely functional and add no structural detail to the invention. Nelson is capable of performing in the manner claimed.

However, Nelson is missing a tab that is fastened on the inside of the top piece. It is noted by the examiner that Figure 1 of Nelson shows fasteners 18 being located on the interior of the garment, while fasteners 19 are located on the exterior of the garment. It would have been an obvious modification to fasten the tab to the interior of the top piece. This configuration would in no way disturb the function of the garment.

### ***Response to Arguments***

Applicant's arguments filed 12/11/08 pertaining to the prior art of Nelson have been fully considered but they are not persuasive. The rejection pertaining to Rothman has been withdrawn.

Applicant submits that Nelson discloses that the combined fastening elements when engaged effectively prevent any separation of the body portion 10 and the brassiere 16 and the combined garment has the effect and gives the appearance of a single free-flowing line. However, it is noted that the structure of Nelson meets the structural requirements of the claim language provided by the applicant. Although the garment may appear to be a single structure, the figures and description of Nelson specifically show two separate pieces combined together. Therefore the bottom portion of Nelson's top piece forms a slit between the top and bottom piece when attached.

Applicant submits that Nelson is silent as to any mutual relationship of an arc radii of any tab limiting edges of the upper edge of the bottom piece. As stated above, the applicant has not specified a point of reference for the claimed arc radii. It is unclear from what reference point the arc radii are being made. The prior art of Nelson reads on the claim language in as much as has been provided by the applicant.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISSA J. TOMPKINS whose telephone number is (571)272-3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa J. Tompkins/  
Examiner, Art Unit 3765

/Gary L. Welch/  
Supervisory Patent Examiner, Art Unit 3765